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UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

.....X
 JEROME LEVINE, :

Plaintiff, :

v. :

UNITED STATES OF AMERICA, and NEW :
 YORK ELEVATOR & ELECTRICAL :
 CORP., et al., :

Defendants. :

.....X
X

NEW YORK ELEVATOR & ELECTRICAL :
 CORP., et al., :

Cross-Claim Plaintiff, :

v. :

UNITED STATES OF AMERICA, :

Cross-Claim Defendant. :

.....X

ECF CASE

No. 07 Civ. 10949 (DC)

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**ANSWER OF THE UNITED STATES
 TO NEW YORK ELEVATOR &
 ELECTRICAL CORP.'S
 CROSS-CLAIMS**

Defendant United States of America ("the United States"), by and through its attorney,
 Michael J. Garcia, United States Attorney for the Southern District of New York, answers the

Cross-Claims of defendant New York Elevator & Electrical Corp. (“New York Elevator”) on information and belief as follows:

FIRST CROSS-CLAIM

1. The United States denies the allegations contained in paragraph 58 of the Cross-Claims.

SECOND CROSS-CLAIM

2. The United States denies the allegations contained in paragraph 59 of the Cross-Claims.

3. The United States denies the allegations contained in paragraph 60 of the Cross-Claims.

4. The allegations contained in the Cross-Claims following the word “WHEREFORE” set forth New York Elevator’s prayers for relief, to which no response is required. To the extent that a response is required, the United States denies that New York Elevator is entitled to such relief.

DEFENSES

FIRST DEFENSE

The United States is immune from suit under the Federal Tort Claims Act for any negligence by its independent contractors.

SECOND DEFENSE

Neither the United States nor its agents and employees were negligent in any manner.

THIRD DEFENSE

The injuries and damages alleged in the Complaint and referenced in the Cross-Claims were not proximately caused by a negligent or wrongful act or omission of the United States or any agent or employee of the United States.

FOURTH DEFENSE

The injuries and damages alleged in the Complaint and referenced in the Cross-Claims were caused in whole or in part by individuals over whom the United States exercised no control.

FIFTH DEFENSE

In the event that the United States is found to be negligent, the negligence of Plaintiff, New York Elevator, or individuals over whom the United States exercised no control contributed to causing the alleged injuries and damages, and any recovery must be proportionately reduced.

SIXTH DEFENSE

New York Elevator may only recover damages against the United States, if at all, as permitted under the Federal Tort Claims Act.


SEVENTH DEFENSE

New York Elevator is not entitled to a trial by jury of its Cross-Claims against the United States. See 28 U.S.C. § 2402.

WHEREFORE, the United States demands judgment dismissing the Cross-Claims, and granting such further relief as the Court deems proper, including costs and disbursements.

Dated: May 1, 2008
New York, New York

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Southern District of New York
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The United States of America

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TO: SIMON B. LANDSBERG, ESQ.
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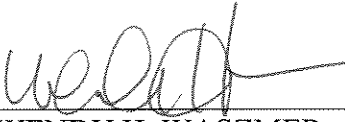
CERTIFICATE OF SERVICE

I, Wendy H. Waszmer, an Assistant United States Attorney for the Southern District of New York, hereby certify that on May 1, 2008, I caused a copy of the foregoing Answer to New York Elevator & Electrical Corp.'s Cross-Claims to be served, by Federal Express, upon the following:

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Dated: New York, New York
May 1, 2008



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